

**Security Council**

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Letter dated 9 February 2006 from the Chairman of the Security Council Committee established pursuant to resolution 1373 (2001) concerning counter-terrorism addressed to the President of the Security Council

The Counter-Terrorism Committee has received the attached sixth report from El Salvador submitted pursuant to paragraph 6 of resolution 1373 (2001) (see annex). I would be grateful if you could arrange for the present letter and its annex to be circulated as a document of the Security Council.

(Signed) Ellen Margrethe **Løj**
Chairman

Security Council Committee established pursuant to
resolution 1373 (2001) concerning counter-terrorism

Annex

Letter dated 26 January 2006 from the Permanent Representative of El Salvador to the United Nations addressed to the Chairman of the Counter-Terrorism Committee

[Original: Spanish]

I have the honour to refer to your letter dated 28 February 2005 addressed to the President of the Security Council, issued as document S/2005/108, in which you stated that the Counter-Terrorism Committee had received the fifth report submitted by the Government of El Salvador in accordance with paragraph 6 of resolution 1373 (2001), and also to the request to the Government of El Salvador to respond to the preliminary comments.

In that regard, I have attached for your information and for all relevant purposes the sixth report of the Republic of El Salvador submitted pursuant to resolution 1373 (2001) (see enclosure).

(Signed) Carmen María **Gallardo Hernández**
Ambassador
Permanent Representative

Enclosure

Sixth report of the Republic of El Salvador submitted pursuant to resolution 1373 (2001)

Replies to the comments made by the Counter-Terrorism Committee on the report submitted by El Salvador pursuant to resolution 1373 (2001)

1. Implementation measures

1.1 *The Committee regards the criminalization of terrorist acts and their financing, and effectiveness in the protection of the financial system from being used by terrorists, as areas of priority for all States in implementing the resolution. In its fifth report, dated 15 February 2005, El Salvador indicates that the Inter-Agency Group against Terrorism (GRICTE) has been working on a draft counter-terrorism act. The Committee would be grateful to receive an update of the status of the proposed legislation and how the act will address the following issues:*

- In its fifth report, El Salvador states that the draft counter-terrorism act will include a separate chapter on the financing of terrorism. The Committee would welcome additional details on the relevant regulations for preventive measures regarding financing of terrorist acts and operative details on freezing those funds suspected to be linked with terrorist or terrorist acts, derived from licit or illicit sources, “without delay”. Are funds held on account for terrorists or their supporters, but not used for any terrorist purpose, subject to freezing without first determining that a crime has been committed or is about to be committed?*

With respect to the request for additional details on the relevant regulations for preventive measures regarding financing of terrorist acts and for operational details concerning the freezing “without delay” of funds that are suspected of being linked to terrorists or terrorist acts, whether they are derived from licit or illicit sources, and in response to the question of whether funds held on account for terrorists or their supporters which are not being used for any terrorist purpose are subject to freezing without first determining that a crime has been committed or is about to be committed, El Salvador would like to note the following:

The preventive measures included in the draft special act on counter-terrorism are regulated in the fifth chapter of the act, “Prevention of acts of terrorism”, which contains the following provisions:

- Preventive measures against acts of terrorism (art. 45)
- Exchange of information (art. 46)

In addition, the third chapter, “Protective measures and seizure”, articles 31-36 of the draft special act on counter-terrorism, currently under discussion and study by the Legislative Assembly with a view to its subsequent adoption by that body, contains the following measures:

- Seizure and forfeiture (art. 31)
- Nullity of instruments (art. 32)

- Freezing of assets (art. 33)
- Sequestration (art. 34)
- Seizure of goods, products or instruments for crimes committed abroad (art. 35)

Challenges to administrative measures for freezing of funds (article 36)

The draft counter-terrorism act, in its second chapter, article 25, criminalizes the “financing of acts of terrorism”, making it possible to apply provisions that permit the freezing without delay of funds or other assets of persons who finance terrorism. It is therefore important that the act should enter into force in order to comply with international recommendations on the prevention and punishment of such behaviour.

Article 33 of the draft special act authorizes a competent judge or the Attorney-General’s Office to order, “in cases of urgent need”, the freezing of bank accounts and of “assets, funds and financial transactions”.

Additionally, concerning the procedures that might be applicable to the provisions of the draft counter-terrorism act, it should be noted that the laws currently in force on money- and asset-laundering (art. 24), banks (arts. 201 and 232), insurance companies (arts. 82 and 96) and non-bank financial intermediaries (arts. 123 and 143), among others, contain provisions in that regard.

El Salvador states in its fifth report that consideration has been given to including the regulation of alternative money transfer in the amendments to the relevant laws. The Committee would appreciate information on the status and operative details of proposed amendments.

With regard to the possibility of including the regulation of alternative money transfers, details on the amendments to current legislation are not available at this time, as the legislation is being studied by the competent authorities. However, in relation specifically to companies that transfer and disburse remittances sent from the United States of America to El Salvador, the Office of the Financial Superintendent is currently exercising oversight only over subsidiaries that form part of the various financial conglomerates authorized to perform such activity.

In addition, work is under way on a project for the exchange of information between the Office of the Financial Superintendent and the Financial Intelligence Unit of the Attorney-General’s Office. To improve the outcome of investigations relating to money-laundering and the financing of terrorism, the Office of the Financial Superintendent has made available, by operation of law, any databases required by the Financial Intelligence Unit of the Attorney-General’s Office.

The Committee acknowledges that special regulation of non-profit organizations to improve the monitoring of their activities in order to prevent the possibility of the financing of terrorism is being considered as measures in the draft counter-terrorism act or as an amendment to the Association and Non-profit Foundation Act already in force. The Committee would be pleased to receive information on the status and details of these proposed regulations.

With regard to non-profit organizations, consideration has also been given to developing special regulations to improve the monitoring of the assets of such

organizations with the aim of preventing their use in criminal activities, in particular the crime of financing of terrorism, through a proposed amendment to the Non-profit Associations and Foundations Act currently in force. No details are available at present on the proposed regulations because, as in the case mentioned above, the matter is being studied by the competent institutions.

The Committee acknowledges that treaties signed and ratified in El Salvador have the standing of domestic law in the Republic and that their enforcement is therefore obligatory. The Committee would be grateful to receive additional information on existing or pending legislation to implement in domestic law the provisions of the international counter-terrorism conventions and protocols to which El Salvador is a party, including the International Convention for the Suppression of the Financing of Terrorism (1999).

With respect to legislation currently in force, ample information has already been provided in the first five reports. As concerns pending legislation, there is the draft counter-terrorism act and other possible amendments that may be under study.

1.2 *The Committee would appreciate a progress report on the ratification of the International Convention on the Protection of Nuclear Material (1980), to which El Salvador is not yet a party.*

As soon as a positive response had been obtained from all the institutions concerned with the issue, the ratification procedures moved forward. At present, legislation is being drafted for subsequent submission to the legislature for ratification.

1.3 *The Committee acknowledges and is grateful for the list of assessments carried out by international organizations contained in the fifth report of El Salvador to the Committee. The Committee would be grateful to receive copies of the assessments and any recommendations and pursuant action plans.*

In order to respond promptly to the Counter-Terrorism Committee, we are annexing hereto the joint assessment carried out by the Caribbean Financial Action Task Force (CFATF) on money-laundering and financing of terrorism. However, we wish to point out that the assessment report had not been made public at the time that this sixth report submitted by El Salvador pursuant to 1373 (2001) was drawn up; accordingly, it may not be used for any purpose other than those specified in the procedures of the organization that carried out the assessment (CFATF), and it should be regarded by other organizations as being for information only.